

SENATE BILL NO. 16

BY SENATOR CLAITOR

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 15:574.4(D)(1)(a) and (2) and (E)(1)(introductory paragraph) and (a) and Code of Criminal Procedure Article 878.1 and to enact R.S. 15:574.4(F) and (G), relative to juvenile parole eligibility; to provide relative to parole eligibility for juveniles who commit certain homicide offenses; to provide relative to the judicial determination of parole eligibility; to provide relative to parole eligibility for juveniles sentenced to life imprisonment for non-homicide offenses; to provide for conditions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:574.4(D)(1)(a) and (2) and (E)(1)(introductory paragraph) and (a) are hereby amended and reenacted and R.S. 15:574.4(F) and (G) are hereby enacted to read as follows:

§574.4. Parole; eligibility; **juvenile offenders**

\* \* \*

D.(1) Notwithstanding any provision of law to the contrary, any person serving a sentence of life imprisonment who was under the age of eighteen years at the time of the commission of the offense, except for a person serving a life sentence for a conviction of first degree murder (R.S. 14:30) or second degree murder (R.S. 14:30.1), shall be eligible for parole consideration pursuant to the provisions of this Subsection if all of the following conditions have been met:

(a) The offender has served ~~thirty~~ **twenty-five** years of the sentence imposed.

\* \* \*

(2) For each offender eligible for parole consideration pursuant to the

1 provisions of this Subsection, the ~~board~~ **committee on parole** shall meet in a three-  
 2 member panel, and each member of the panel shall be provided with and shall  
 3 consider a written evaluation of the offender by a person who has expertise in  
 4 adolescent brain development and behavior and any other relevant evidence  
 5 pertaining to the offender.

6 \* \* \*

7 E.(1) Notwithstanding any provision of law to the contrary **and except as**  
 8 **provided in Subsection G of this Section**, any person serving a sentence of life  
 9 imprisonment for a conviction of first degree murder (R.S. 14:30) ~~or second degree~~  
 10 ~~murder (R.S. 14:30.1)~~ who was under the age of eighteen years at the time of the  
 11 commission of the offense **and whose indictment for the offense is on or after**  
 12 **August 1, 2017**, shall be eligible for parole consideration pursuant to the provisions  
 13 of this Subsection if a judicial determination has been made that the person is  
 14 entitled to parole eligibility pursuant to Code of Criminal Procedure Article 878.1(A)  
 15 and all of the following conditions have been met:

16 (a) The offender has served ~~thirty-five~~ **twenty-five** years of the sentence  
 17 imposed.

18 \* \* \*

19 **F.(1) Notwithstanding any provision of law to the contrary and except**  
 20 **as provided in Subsection G of this Section, any person serving a sentence of life**  
 21 **imprisonment for a conviction of second degree murder (R.S. 14:30.1) who was**  
 22 **under the age of eighteen years at the time of the commission of the offense and**  
 23 **whose indictment for the offense is on or after August 1, 2017, shall be eligible**  
 24 **for parole consideration if all of the following conditions have been met:**

25 **(a) The offender has served twenty-five years of the sentence imposed.**

26 **(b) The offender has not committed any major disciplinary offenses in**  
 27 **the twelve consecutive months prior to the parole hearing date. A major**  
 28 **disciplinary offense is an offense identified as a Schedule B offense by the**  
 29 **Department of Public Safety and Corrections in the Disciplinary Rules and**  
 30 **Procedures for Adult Offenders.**

1            (c) The offender has completed the mandatory minimum of one hundred  
2            hours of pre-release programming in accordance with R.S. 15:827.1.

3            (d) The offender has completed substance abuse treatment as applicable.

4            (e) The offender has obtained a GED certification, unless the offender  
5            has previously obtained a high school diploma or is deemed by a certified  
6            educator as being incapable of obtaining a GED certification due to a learning  
7            disability. If the offender is deemed incapable of obtaining a GED certification,  
8            the offender shall complete at least one of the following:

9            (i) A literacy program.

10           (ii) An adult basic education program.

11           (iii) A job skills training program.

12           (f) The offender has obtained a low-risk level designation determined by  
13           a validated risk assessment instrument approved by the secretary of the  
14           Department of Public Safety and Corrections.

15           (g) The offender has completed a reentry program to be determined by  
16           the Department of Public Safety and Corrections.

17           (2) For each offender eligible for parole consideration pursuant to the  
18           provisions of this Subsection, the board shall meet in a three-member panel, and  
19           each member of the panel shall be provided with and shall consider a written  
20           evaluation of the offender by a person who has expertise in adolescent brain  
21           development and behavior and any other relevant evidence pertaining to the  
22           offender.

23           (3) The panel shall render specific findings of fact in support of its  
24           decision.

25           G.(1) Notwithstanding any provision of law to the contrary, any person  
26           -serving a sentence of life imprisonment for a conviction of first degree murder  
27           (R.S. 14:30) or second degree murder (R.S. 14:30.1) who was under the age of  
28           eighteen years at the time of the commission of the offense and whose  
29           indictment for the offense was prior to August 1, 2017, shall be eligible for  
30           parole consideration pursuant to the provisions of this Subsection if a judicial

1 determination has been made that the person is entitled to parole eligibility  
2 pursuant to Code of Criminal Procedure Article 878.1(B) and all of the  
3 following conditions have been met:

4 (a) The offender has served twenty-five years of the sentence imposed.

5 (b) The offender has not committed any major disciplinary offenses in  
6 the twelve consecutive months prior to the parole hearing date. A major  
7 disciplinary offense is an offense identified as a Schedule B offense by the  
8 Department of Public Safety and Corrections in the Disciplinary Rules and  
9 Procedures for Adult Offenders.

10 (c) The offender has completed the mandatory minimum of one hundred  
11 hours of pre-release programming in accordance with R.S. 15:827.1.

12 (d) The offender has completed substance abuse treatment as applicable.

13 (e) The offender has obtained a GED certification, unless the offender  
14 has previously obtained a high school diploma or is deemed by a certified  
15 educator as being incapable of obtaining a GED certification due to a learning  
16 disability. If the offender is deemed incapable of obtaining a GED certification,  
17 the offender shall complete at least one of the following:

18 (i) A literacy program.

19 (ii) An adult basic education program.

20 (iii) A job skills training program.

21 (f) The offender has obtained a low-risk level designation determined by  
22 a validated risk assessment instrument approved by the secretary of the  
23 Department of Public Safety and Corrections.

24 (g) The offender has completed a reentry program to be determined by  
25 the Department of Public Safety and Corrections.

26 (2) For each offender eligible for parole consideration pursuant to the  
27 provisions of this Subsection, the board shall meet in a three-member panel, and  
28 each member of the panel shall be provided with and shall consider a written  
29 evaluation of the offender by a person who has expertise in adolescent brain  
30 development and behavior and any other relevant evidence pertaining to the

1 offender.

2 (3) The panel shall render specific findings of fact in support of its  
 3 decision.

4 Section 2. Code of Criminal Procedure Article 878.1 is hereby amended and  
 5 reenacted to read as follows:

6 Art. 878.1. ~~Sentencing hearing~~ Hearing to determine parole eligibility for certain  
 7 juvenile offenders

8 A. ~~In any case where an~~ If an offender is indicted on or after August 1,  
 9 2017, for the crime ~~to be sentenced to life imprisonment for a conviction of first~~  
 10 ~~degree murder (R.S. 14:30) or second degree murder (R.S. 14:30.1) where the~~  
 11 ~~offender was under the age of eighteen years at the time of the commission of the~~  
 12 ~~offense,~~ the district attorney may file a notice of intent to seek a sentence of life  
 13 imprisonment without possibility of parole within one hundred eighty days after  
 14 the indictment. If the district attorney timely files the notice of intent, a hearing  
 15 shall be conducted after conviction and prior to sentencing to determine whether  
 16 the sentence shall be imposed with or without parole eligibility. If the court  
 17 determines that the sentence shall be imposed with parole eligibility, the  
 18 offender shall be eligible for parole pursuant to the provisions of R.S. 15:574.4(E).  
 19 If the district attorney fails to timely file the notice of intent, the sentence shall  
 20 be imposed with parole eligibility and the offender shall be eligible for parole  
 21 pursuant to the provisions of R.S. 15:574.4(E) without the need of a judicial  
 22 determination pursuant to the provisions of this Article. If the court determines  
 23 that the sentence shall be imposed without parole eligibility, the offender shall  
 24 not be eligible for parole.

25 B.(1) If an offender was indicted prior to August 1, 2017, for the crime  
 26 of first degree murder (R.S. 14:30) or second degree murder (R.S. 14:30.1)  
 27 where the offender was under the age of eighteen years at the time of the  
 28 commission of the offense and a hearing was not held pursuant to this Article  
 29 prior to August 1, 2017, to determine whether the offender's sentence should be  
 30 imposed with or without parole eligibility, the district attorney may file a notice

1 of intent to seek a sentence of life imprisonment without the possibility of parole  
2 within ninety days of August 1, 2017. If the district attorney timely files the  
3 notice of intent, a hearing shall be conducted to determine whether the sentence  
4 shall be imposed with or without parole eligibility. If the court determines that  
5 the sentence shall be imposed with parole eligibility, the offender shall be  
6 eligible for parole pursuant to R.S. 15:574.4(G). If the district attorney fails to  
7 timely file the notice of intent, the offender shall be eligible for parole pursuant  
8 to R.S. 15:574.4(E) without the need of a judicial determination pursuant to the  
9 provisions of this Article. If the court determines that the sentence shall be  
10 imposed without parole eligibility, the offender shall not be eligible for parole.

11 (2) If an offender was indicted prior to August 1, 2017, for the crime of  
12 first degree murder (R.S. 14:30) or second degree murder (R.S. 14:30.1) where  
13 the offender was under the age of eighteen years at the time of the commission  
14 of the offense and a hearing was held pursuant to this Article prior to August 1,  
15 2017, the following shall apply:

16 (a) If the court determined at the hearing that was held prior to  
17 August 1, 2017, that the offender's sentence shall be imposed with parole  
18 eligibility, the offender shall be eligible for parole pursuant to R.S. 15:574.4(G).

19 (b) If the court determined at the hearing that was held prior to  
20 August 1, 2017, that the offender's sentence shall be imposed without parole  
21 eligibility, the offender shall not be eligible for parole.

22 B.C. At the hearing, the prosecution and defense shall be allowed to  
23 introduce any aggravating and mitigating evidence that is relevant to the charged  
24 offense or the character of the offender, including but not limited to the facts and  
25 circumstances of the crime, the criminal history of the offender, the offender's level  
26 of family support, social history, and such other factors as the court may deem  
27 relevant. The admissibility of expert witness testimony in these matters shall be  
28 governed by Chapter 7 of the Code of Evidence. Sentences imposed without  
29 parole eligibility should normally be reserved for the worst offenders and the worst  
30 cases.

1                    **D. The sole purpose of the hearing is to determine whether the sentence**  
2                    **shall be imposed with or without parole eligibility. The court shall state for the**  
3                    **record the considerations taken into account and the factual basis for its**  
4                    **determination. Sentences imposed without parole eligibility and determinations**  
5                    **that an offender is not entitled to parole eligibility should normally be reserved**  
6                    **for the worst offenders and the worst cases.**

\_\_\_\_\_  
PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_